

Message Text

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ACTION L-02

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TO SECSTATE WASHDC 6466

INFO AMEMBASSY THE HAGUE

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TAGS: UN, ICJ

SUBJECT: UNGA LEGAL COMITE: INTERNATIONAL COURT OF JUSTICE (ICJ)

REF: A) USUN 3624; B) STATE 218613

1. BELOW IS LATEST REVISION OF NETHERLANDS TEXT ON REVIEW OF
ROLE OF ICJ DRAFT RES. AS DEPT WILL NOTE PRESENT TEXT ONLY
SLIGHTLY WEAKER THAN PRIOR TEXT (REFTEL A). CONSISTENT WITH
INSTRUCTIONS (REFTEL B) USDEL HAS CONTINUED RESISTANCE TO WEAKENING
OF TEXT. NETHERLANDS DEL SHOULD FORMALLY TABLE DRAFT RES IN NEAR
FUTURE. USDEL REQUESTS AUTHORITY TO COSPONSOR, AT APPROPRIATE
TIME.

2. BEGIN TEXT:

DRAFT RES ON THE REVIEW OF THE ROLE OF THE INTERNATIONAL COURT
OF JUSTICE

THE GENERAL ASSEMBLY,

RECALLING THAT THE INTERNATIONAL COURT OF JUSTICE IS THE
PRINCIPAL JUDICIAL ORGAN OF THE UNITED NATIONS,

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BEARING IN MIND THAT IN CONFORMITY WITH ARTICLE 10 OF THE CHARTER, THE ROLE OF THE COURT REMAINS AN APPROPRIATE MATTER FOR THE ATTENTION OF THE GENERAL ASSEMBLY,

RECALLING FURTHER THAT, IN ACCORDANCE WITH ARTICLE 2, PARA 3, OF THE CHARTER OF THE UN, ALL MEMBERS SHALL SETTLE THEIR INTERNATIONAL DISPUTES BY PEACEFUL MEANS IN SUCH A MANNER THAT INTERNATIONAL PEACE AND SECURITY, AND JUSTICE, ARE NOT ENDANGERED,

TAKING NOTE OF THE VIEWS EXPRESSED BY MEMBER STATES DURING THE DEBATES IN THE SIXTH COMITE ON THE QUESTION OF THE REVIEW OF THE ROLE OF THE ICJ AT THE 25, 26TH, 27TH AND 29TH SESSION OF THE GENERAL ASSEMBLY,

TAKING NOTE ALSO OF THE COMMENTS TRANSMITTED BY MEMBER STATES AND BY SWITZERLAND IN ANSWER TO A QUESTIONNAIRE OF THE SYG IN ACCORDANCE WITH GA RESES 2723 (XXV) AND 2818 (XXVI), AND OF THE TEXT OF THE LETTER ADDRESSED TO THE SYG BY THE PRESIDENT OF THE COURT,

CONSIDERING THAT THE ICJ HAS RECENTLY AMENDED THE RULES OF COURT, WITH A VIEW TO FACILITATING RECOURSE TO IT FOR JUDICIAL SETTLEMENT OF DISPUTES, INTER ALIA BY SIMPLIFYING THE PROCEDURE, REDUCING THE LIKELIHOOD OF UNDUE DELAYS AND COSTS AND ALLOWING FOR GREATER INFLUENCE OF PARTIES ON THE COMPOSITION OF AD HOC CHAMBERS,

RECALLING THE INCREASING DEVELOPMENT AND CODIFICATION OF INTERNATIONAL LAW IN CONVENTIONS OPEN FOR UNIVERSAL PARTICIPATION AND THE CONSEQUENT NEED FOR THEIR UNIFORM INTERPRETATION AND APPLICATION,

RECALLING FURTHER THE OPPORTUNITIES AFFORDED BY THE POWER OF THE ICJ, UNDER ARTICLE 38, PARA 2 OF ITS STATUTE, TO DECIDE A CASE EX AEQUO ET BONO IF THE PARTIES AGREE THERETO,

1. RECOGNIZES THE DESIRABILITY THAT STATES STUDY ACCEPTING, WITH AS FEW RESERVATIONS AS POSSIBLE, THE COMPULSORY JURISDICTION OF THE ICJ IN ACCORDANCE WITH ARTICLE 36, PARAS 2, 3 AND 5 OF THE STATUTE;
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2. DRAWS THE ATTENTION OF STATES TO THE ADVANTAGE OF INSERTING IN TREATIES CLAUSES PROVIDING FOR THE SUBMISSION OF DISPUTES WHICH MAY ARISE FROM THE INTERPRETATION OR APPLICATION OF SUCH TREATIES, AS FAR AS POSSIBLE AND APPROPRIATE, TO THE INTERNATIONAL COURT OF JUSTICE;

3. CALLS UPON STATES TO KEEP UNDER REVIEW THE POSSIBILITY OF

IDENTIFYING CASES IN WHICH USE CAN BE MADE OF THE COURT;

4. DRAWS THE ATTENTION OF STATES TO THE POSSIBILITY OF MAKING
USE OF CHAMBERS AS PROVIDED IN ARTICLES 26 AND 29 OF THE
STATUTE AND IN THE RULES OF PROCEDURE, INCLUDING THOSE WHICH WOULD
DEAL WITH PARTICULAR CATEGORIES OF CASES;

5. RECOMMENDS THAT UN ORGANS AND THE SPECIALIZED AGENCIES SHOULD,
FROM TIME TO TIME, REVIEW LEGAL QUESTIONS WITHIN THE COMPETENCE OF
THE ICJ THAT HAVE ARISEN OR WILL ARISE DURING THEIR ACTIVITIES AND
SHOULD STUDY THE ADVISABILITY OF REFERRING THEM TO THE COURT FOR
AN ADVISORY OPINION, PROVIDED THAT THEY ARE DULY AUTHORIZED TO DO
SO;

6. REAFFIRMS THAT RECOURSE TO JUDICIAL SETTLEMENT OF LEGAL
DISPUTES, PARTICULARLY REFERRAL TO THE ICJ, SHOULD NOT BE CON-
SIDERED AS AN UNFRIENDLY ACT BETWEEN STATES. END TEXT.
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